

Assembly Bill No. 2759

CHAPTER 979

An act to amend Sections 23050, 23100, 23800, 23817.5, 23824, 23986, 25502.1, 25503.6, 25503.8, 25503.26, 25503.85, and 25512 of, and to add Section 25500.2 to, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 29, 2000. Filed
with Secretary of State September 30, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2759, Committee on Governmental Organization. Department of Alcoholic Beverage Control: director: licensees: tied-house restrictions.

(1) Under existing law, the director of the Department of Alcoholic Beverage Control is required to be a member of the Governor's Council, and entering upon the duties of the office, is required to execute an official bond to the state for \$25,000.

This bill would remove those requirements.

(2) Existing law allows a person in possession of a stock of lawfully acquired alcoholic beverages following the revocation or voluntary surrender of, or failure to renew, an alcoholic beverage license to sell that stock to licensees, as authorized by the Department of Alcoholic Beverage Control.

This bill would instead allow a wholesaler or manufacturer to accept the return of beer under similar circumstances and credit the retailer, as provided.

(3) Under existing law, the Department of Alcoholic Beverage Control is authorized to place reasonable restrictions upon retail licensees or any licensee in the exercise of retail privileges in various situations. Existing law permits the department to place reasonable restrictions on these licensees if the department adopts conditions requested by a local governing body.

This bill would permit the department in that situation to place reasonable restrictions on these licensees at the time of transfer of a license under specified circumstances.

(4) Existing law permits replacement off-sale and beer licenses for use at abandoned premises that were licensed within the past 12 months.

This bill, instead, would permit replacement off-sale and beer licenses for use at abandoned premises that were licensed and operated within the past 90 days.

(5) Existing law provides that limitations on the number of licensed premises shall not apply to premises located on land owned by the State of California.

This bill would provide additionally that those limitations on the number of licensed premises shall not apply to premises located on land owned by and leased from the State of California.

(6) Existing law requires an applicant for an on-sale or off-sale license in a census tract having an undue concentration of licenses, as defined by departmental rule or regulation, to have a notice of the application published, as specified.

This bill instead would refer to an undue concentration of licenses, as defined by a particular statute.

(7) Existing provisions of the Alcoholic Beverage Control Act known as “tied-house” restrictions generally prohibit an on-sale alcoholic beverage licensee from having an ownership interest in an alcoholic beverage manufacturer. Existing law allows as an exception to those provisions a holder of no more than 8 on-sale licenses to hold not more than 16.67% of the stock of a corporation that holds beer manufacturer licenses that are located in Sacramento, Placer, El Dorado, Marin, or Napa County.

This bill would remove El Dorado and Marin Counties, and add Contra Costa and San Joaquin Counties to the authorized locations.

“Tied-house” restrictions, also prohibit a manufacturer, winegrower, manufacturer’s agent, California winegrower’s agent, rectifier, distiller, bottler, importer, or wholesaler from furnishing, giving, or lending any money or other thing of value to any person engaged in operating, owning, or maintaining any on-sale or off-sale licensed premises.

Existing law provides that for purposes of the off-sale provisions, the listing of the names, addresses, telephone numbers or E-mail addresses, or both, or website addresses, of 2 or more unaffiliated off-sale retailers selling the products produced, distributed or imported by a nonretail industry member, defined as a manufacturer, winegrower, or distiller of alcoholic beverages, in response to a direct inquiry from a consumer received by telephone, by mail, by electronic Internet inquiry or in person does not constitute a thing of value or prohibited inducement to the listed off-sale retailer, if specified conditions are met.

This bill would extend these provisions to on-sale licensees, and would include within the definition of a nonretail industry member an agent of a manufacturer, winegrower, or distiller of alcoholic beverages, and a wholesaler of distilled spirits or wine.

Existing law generally prohibits a manufacturer of alcoholic beverages and a winegrower from paying, crediting, or compensating a retailer for advertising or paying or giving anything of value for the privilege of placing a sign or advertisement with a retail licensee.



Under existing law, the holder of a beer manufacturer's license or a winegrower's license is permitted to purchase advertising space and time from or on behalf of an on-sale retail licensee under certain conditions, if the on-sale licensee owns a specified facility.

This bill would extend that authorization to a distilled spirits manufacturer and a distilled spirits manufacturer's agent. The bill would permit specified manufacturers to purchase advertising space and time from a retail licensee who is the owner, manager, agent, assignee, or major tenant of a certain sized arena in Los Angeles County.

The bill would include a theme or amusement park and the adjacent retail, dining, and entertainment area located in the City of Los Angeles or Los Angeles County within the enumerated facilities permitted to be owned by an on-sale licensee for purposes of the purchase of advertising time and space.

(8) This bill would also make it a misdemeanor for an on-sale retail licensee subject to the provisions of the bill, to solicit or coerce a holder of a distilled spirits license to purchase that advertising space or time.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 23050 of the Business and Professions Code is amended to read:

23050. There is in the State Government a Department of Alcoholic Beverage Control. The department shall be administered through a civil executive officer who shall be known as the Director of Alcoholic Beverage Control. The director shall be appointed and shall serve as provided in Section 22 of Article XX of the Constitution and shall receive an annual salary as provided for by Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 23100 of the Business and Professions Code is amended to read:

23100. (a) A wholesaler or manufacturer, or any successor thereto, may accept the return of beer purchased from that wholesaler or manufacturer, or any successor thereto, by the holder of a retail license following the revocation of, suspension of, voluntary surrender of, or failure to renew the retail license.



(b) A wholesaler or manufacturer, or any successor thereto, may credit the account of the retailer identified in subdivision (a) in an amount not to exceed the original sales price to the retailer of the returned beer, provided that the beer has been paid for in full.

SEC. 3. Section 23800 of the Business and Professions Code is amended to read:

23800. The department may place reasonable conditions upon retail licensees or upon any licensee in the exercise of retail privileges in the following situations:

(a) If grounds exist for the denial of an application for a license or where a protest against the issuance of a license is filed and if the department finds that those grounds may be removed by the imposition of those conditions.

(b) Where findings are made by the department which would justify a suspension or revocation of a license, and where the imposition of a condition is reasonably related to those findings. In the case of a suspension, the conditions may be in lieu of or in addition to the suspension.

(c) Where the department issues an order suspending or revoking only a portion of the privileges to be exercised under the license.

(d) Where findings are made by the department that the licensee has failed to correct objectionable conditions within a reasonable time after receipt of notice to make corrections given pursuant to subdivision (e) of Section 24200.

(e) At the time of transfer of a license pursuant to Section 24071.1, 24071.2, or 24072 and upon written notice to the licensee from the department adopting conditions requested by the local governing body, or its designated subordinate officer or agency, in whose jurisdiction the license is located. The request for conditions shall be supported by substantial evidence that the problems either on the premises or in the immediate vicinity identified by the local governing body or its designated subordinate officer or agency will be mitigated by the conditions. Upon receipt of the request for conditions, the department shall either adopt the conditions requested or notify the local governing body, or its designated subordinate officer or agency, in writing of its determination that there is not substantial evidence that the problem exists or that the conditions would not mitigate the problems identified. The department may adopt conditions requested pursuant to this paragraph only when the request is filed within the time authorized for a local law enforcement agency to file a protest or proposed conditions pursuant to Section 23987.

SEC. 3.3. Section 23817.5 of the Business and Professions Code is amended to read:

23817.5. (a) (1) The number of premises for which an off-sale beer and wine license is issued shall be limited to one for each 2,500, or fraction thereof, inhabitants of the city or county in which the



premises are situated. No additional off-sale beer and wine license, other than a renewal or transfer or as permitted by Section 23821, shall be issued in any city or county where the number of premises for which all off-sale beer and wine licenses are issued is more than one for each 2,500, or fraction thereof, inhabitants of the city or county.

(2) The number of premises for which an off-sale beer and wine license is issued in a city and county, in combination with the number of premises for which an off-sale general license is issued in a city and county, shall be limited to one for each 1,250, or fraction thereof, inhabitants of the city and county in which the premises are situated. No additional off-sale beer and wine license, other than a renewal or transfer or as permitted by Section 23821, shall be issued in any city and county where the number of premises for which all off-sale beer and wine licenses in combination with off-sale general licenses are issued is more than one for each 1,250, or fraction thereof, inhabitants of the city and county.

(b) Notwithstanding subdivision (a), a retail off-sale beer and wine replacement license shall be issued upon application when all of the following conditions exist:

(1) The replacement license is only for use at a premises which was licensed and operated within the past 90 days.

(2) The prior licensee abandoned the premises or the original license is subject to a bankruptcy proceeding and the prior licensee has no right to operate at that location. For purposes of this paragraph, “abandoned” means that the prior license has not been transferred to a new location and the prior licensee is not exercising dominion or control over the premises. “Abandoned” does not mean a license which has been voluntarily surrendered pursuant to department rule.

(3) The application for a replacement license shall be accompanied by a fee of one hundred dollars (\$100).

(c) The following limitations shall apply to the issuance of a replacement license:

(1) The replacement license shall not be transferred to another premises.

(2) All conditions imposed on the original license shall apply to the replacement license.

(3) The original license shall be canceled by operation of law upon the issuance of the replacement license.

SEC. 3.5. Section 23824 of the Business and Professions Code is amended to read:

23824. Limitations provided by Section 23816 on the number of licensed premises shall not apply to premises located on land owned by and leased from the State of California, or to premises owned by the State of California, any incorporated city, county, city and county, airport district, or other district or public corporation of the State of

California or to premises leased to the State of California or to any city or county, so long as the premises are operated as a bona fide public eating place, provided, however, that civic auditoriums owned by any incorporated city, county, city and county, or other district or any premises leased to the State of California or to any county or city for use as a civic auditorium and directly operated by a public entity shall be subject to the limitations provided by Section 23816, but shall not be required to be operated as a bona fide public eating place. The civic auditorium shall further not be subject to the provisions of Section 23793.

Licenses issued on premises owned by the state, incorporated city, county, city and county, airport district, or other district or public corporation of the State of California, or issued on premises leased to the State of California or to any county or city, shall be renewable as set forth in Section 24048. These licenses shall be excluded from the number of premises used in determining application of the limitations provided by this article. These licenses shall be subject to an original fee of six thousand dollars (\$6,000) and shall be only transferable from person to person at the same premises. Prior to the issuance of these licenses, the governmental agency owning or leasing the premises shall file with the department a written request that the license be issued and a written statement setting forth the reasons why issuance of the license would be in the public interest.

A written request filed with the department by the governmental agency owning or the city or county leasing premises used as a civic auditorium and directly operated as a public entity that the license be issued need not contain a written statement setting forth the reasons why issuance of the license would be in the public interest.

Funds derived from fees collected pursuant to the amendments made to this section at the 1975–76 Regular Session of the Legislature shall be deposited in the General Fund.

SEC. 4. Section 23986 of the Business and Professions Code is amended to read:

23986. (a) Any applicant for an on-sale license shall cause a notice of the application, giving the name or names of the applicant and the premises where the business is to be conducted, to be published pursuant to Section 6061 of the Government Code in a newspaper of general circulation, other than a legal or professional trade publication, in the city in which the premises are situated, or if the premises are not in a city, the publication shall be made in a newspaper of general circulation nearest the premises where the business is to be conducted. The form of the notice shall be prescribed by the department. Affidavit of publication shall be filed with the department prior to the issuance of any license. The department shall adopt rules and regulations to enforce the provisions of this section.

(b) Any applicant for an on-sale or off-sale license at a premises which is located in a census tract which has an undue concentration

of licenses, as defined in paragraph (2) or (3) of subdivision (a) of Section 23958.4, shall cause a notice of the application to be published pursuant to Section 6063 of the Government Code in a newspaper of general circulation other than a legal or trade publication. Publication shall be made in the city in which the premises are situated, or if the premises are not in a city, the publication shall be made in a newspaper of general circulation nearest the premises where the business is to be conducted. The form of the notice shall be prescribed by the department. Affidavit of publication shall be filed with the department prior to the issuance of any license. The department shall adopt rules and regulations to enforce the provisions of this subdivision.

SEC. 6. Section 25500.2 is added to the Business and Professions Code, to read:

25500.2. (a) Notwithstanding Section 25500, the listing of the names, addresses, telephone numbers, E-mail addresses, or website addresses, of two or more unaffiliated on-sale retailers selling beer, wine, or distilled spirits, and operating and licensed as bona fide public eating places pursuant to Section 23038 selling the beer, wine, or distilled spirits produced, distributed, or imported by a nonretail industry member in response to a direct inquiry from a consumer received by telephone, by mail, by electronic Internet inquiry, or in person does not constitute a thing of value or prohibited inducement to the listed on-sale retailer, provided all of the following conditions are met:

- (1) The listing does not also contain the retail price of the product.
- (2) The listing is the only reference to the on-sale retailers in the direct communication.
- (3) The listing does not refer only to one on-sale retailer or only to on-sale retail establishments controlled directly or indirectly by the same on-sale retailer.
- (4) The listing is made by, or produced by, or paid for, exclusively by the nonretail industry member making the response.

(b) For the purposes of this section, “nonretail industry member” is defined as a manufacturer, including, but not limited to, a beer manufacturer, winegrower, or distiller of alcoholic beverages or an agent of that entity, or a wholesaler of distilled spirits or wine, regardless of any other licenses held directly or indirectly by that person. Except as specifically provided above, any payment for, making or production, either directly or indirectly, listing the names, addresses, telephone numbers, E-mail addresses, or website addresses, of on-sale retailers selling beer otherwise authorized by this section by a wholesaler of beer or by a wholesaler of beer that also holds an importer’s license shall constitute the furnishing of a thing of value or inducement to the listed on-sale retailers in violation of this division.

SEC. 7. Section 25502.1 of the Business and Professions Code is amended to read:

25502.1. (a) Notwithstanding Section 25502, the listing of the names, addresses, telephone numbers, E-mail addresses, or website addresses, of two or more unaffiliated off-sale retailers selling the products produced, distributed or imported by a nonretail industry member in response to a direct inquiry from a consumer received by telephone, by mail, by electronic Internet inquiry or in person does not constitute a thing of value or prohibited inducement to the listed off-sale retailer, provided all of the following conditions are met:

(1) The listing does not also contain the retail price of the product.

(2) The listing is the only reference to the off-sale retailers in the direct communication.

(3) The listing does not refer only to one off-sale retailer or only to off-sale retail establishments controlled directly or indirectly by the same off-sale retailer.

(4) The listing is made by, or produced by, or paid for, exclusively by the nonretail industry member making the response.

(b) For the purposes of this section, “nonretail industry member” is defined as a manufacturer, including, but not limited to, a beer manufacturer, winegrower, or distiller of alcoholic beverages or an agent of that entity, or a wholesaler of distilled spirits or wine, regardless of any other licenses held directly or indirectly by that person. Except as specifically provided above, any payment for, making or production, either directly or indirectly, listing the names, addresses, telephone numbers, E-mail addresses, or website addresses, of off-sale retailers selling beer otherwise authorized by this section by a wholesaler of beer or by a wholesaler of beer that also holds an importer’s license shall constitute the furnishing of a thing of value or inducement to the listed off-sale retailers in violation of this division.

SEC. 8. Section 25503.6 of the Business and Professions Code is amended to read:

25503.6. (a) Notwithstanding any other provision of this chapter, the holder of a beer manufacturer’s or winegrower’s license or a distilled spirits manufacturer or distilled spirits manufacturer’s agent may purchase advertising space and time from, or on behalf of, an on-sale retail licensee subject to all of the following conditions:

(1) The on-sale licensee is the owner, manager, agent of the owner, assignee of the owner’s advertising rights, or the major tenant of the owner of any of the following:

(A) An outdoor stadium or a fully enclosed arena with a fixed seating capacity in excess of 10,000 seats located in Sacramento County.

(B) A fully enclosed arena with a fixed seating capacity in excess of 18,000 seats located in Orange County or Los Angeles County.



(C) An outdoor stadium or fully enclosed arena with a fixed seating capacity in excess of 8,500 seats located in Kern County.

(D) An exposition park of not less than 50 acres that includes an outdoor stadium with a fixed seating capacity in excess of 8,000 seats and a fully enclosed arena with an attendance capacity in excess of 4,500 people, located within a county of the fourth class, as defined in Section 28025 of the Government Code.

(E) An outdoor stadium with a fixed seating capacity in excess of 10,000 seats located in Yolo County.

(2) The outdoor stadium or fully enclosed arena described in paragraph (1) is not owned by a community college district.

(3) The advertising space or time is purchased only in connection with the events to be held on the premises of the stadium or arena owned by the on-sale licensee.

(4) The on-sale licensee serves other brands of beer in addition to the brand manufactured by the beer manufacturer , other brands of wine in addition to the brand produced by the winegrower , and other brands of distilled spirits in addition to the brand manufactured by the distilled spirits manufacturer or distilled spirits manufacturer's agent.

(b) Any purchase of advertising space or time pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the holder of the beer manufacturer's or winegrower's license, the distilled spirits manufacturer, or the distilled spirits manufacturer's agent and the on-sale licensee.

(c) Any holder of a beer manufacturer's or winegrower's license, any distilled spirits manufacturer, or any distilled spirits manufacturer's agent who, through coercion or other illegal means, induces a holder of a beer , wine, or distilled spirits wholesaler's license to fulfill those contractual obligations entered into pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(d) Any on-sale retail licensee, as described in subdivision (a), who solicits or coerces a holder of a beer , wine, or distilled spirits wholesaler's license to solicit a holder of a beer manufacturer's or winegrower's license, a distilled spirits manufacturer, or a distilled spirits manufacturer's agent to purchase advertising space or time pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars (\$10,000), or by both imprisonment and fine.



The person shall also be subject to license revocation pursuant to Section 24200.

SEC. 9. Section 25503.8 of the Business and Professions Code is amended to read:

25503.8. (a) Notwithstanding any other provision of this chapter, a beer manufacturer, the holder of a winegrower's license, a distilled spirits manufacturer, or a distilled spirits manufacturer's agent may purchase advertising space and time from, or on behalf of, an on-sale retail licensee if all of the following conditions are met:

(1) The on-sale licensee is the owner of any of the following:

(A) A fully enclosed auditorium or theater with a fixed seating capacity in excess of 6,000 seats, at least 60 percent of the use of which is for plays or musical concerts, not including sporting events.

(B) A motion picture studio facility at which public tours are conducted for at least four million people per year.

(C) A retail, entertainment development adjacent to, and under common ownership with, a theme park, amphitheater, and motion picture production studio.

(D) A theme or amusement park and the adjacent retail, dining, and entertainment area located in the City of Los Angeles, Los Angeles County, or Orange County.

(2) The advertising space or time is purchased only in connection with one of the following:

(A) In the case of a fully enclosed auditorium or theater, in connection with sponsorship of plays or musical concerts to be held on the premises of the auditorium or theater owned by the on-sale licensee.

(B) In the case of a motion picture studio facility, in connection with sponsorship of the public tours or special events conducted at the studio facility.

(C) In the case of a retail, entertainment development, in connection with sponsorship of public tours or special events conducted at the development.

(D) In the case of a theme or amusement park and the adjacent retail, dining, and entertainment area, located in the City of Los Angeles, Los Angeles County, or Orange County, in connection with daily activities and events at the theme or amusement park and the adjacent retail, dining, and entertainment area.

(3) The on-sale licensee serves other brands of distilled spirits, beer, or wine in addition to the brand manufactured or marketed by the distilled spirits manufacturer, distilled spirits manufacturer's agent, or beer manufacturer, or produced by the winegrower purchasing the advertising space or time.

(b) Any purchase of advertising space or time conducted pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the beer manufacturer, the holder of the winegrower's license, the distilled spirits manufacturer, or the

distilled spirits manufacturer's agent, and the on-sale licensee, which contract shall not in any way involve the holder of a distilled spirits, beer, or wine wholesaler's license.

(c) Any beer manufacturer, distilled spirits manufacturer, distilled spirits manufacturer's agent, or holder of a winegrower's license who, through coercion or other means, induces a holder of a beer or wine wholesaler's license to fulfill those contractual obligations entered into pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(d) Any on-sale retail licensee, as described in subdivision (a), who solicits or coerces a holder of a beer or wine wholesaler's license to solicit a beer manufacturer, distilled spirits manufacturer, or distilled spirits manufacturer's agent, or holder of a winegrower's license to purchase advertising space or time pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

SEC. 10. Section 25503.26 of the Business and Professions Code is amended to read:

25503.26. (a) Notwithstanding any other provision of this chapter, a beer manufacturer, the holder of a winegrower's license, a manufacturer of distilled spirits, or distilled spirits manufacturer's agent, may purchase advertising space and time from, or on behalf of, an on-sale retail licensee subject to all of the following conditions:

(1) The on-sale licensee is the owner, or is the lessee, or is a wholly owned subsidiary of the lessee, of an arena with a fixed seating capacity in excess of 10,000 seats, at least 60 percent of the use of which is for horseracing events, and which is located within Los Angeles County, Alameda County, or San Mateo County.

(2) The advertising space or time is purchased only in connection with events to be held on the premises of the arena owned or leased by the on-sale licensee.

(3) The on-sale licensee serves other brands of beer, distilled spirits, or wine in addition to the brand manufactured by the beer manufacturer or distilled spirits manufacturer or produced by the winegrower purchasing the advertising space or time.

(b) Any purchase of advertising space or time pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the beer manufacturer, the holder of the

winegrower's license, or the manufacturer of distilled spirits, and the on-sale licensee.

(c) Any beer manufacturer, holder of a winegrower's license, or manufacturer of distilled spirits, who, through coercion or other illegal means, induces a holder of a beer or wine or distilled spirits wholesaler's license to fulfill the contractual obligations entered into pursuant to subdivision (a) or (b) is guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

SEC. 11. Section 25503.85 of the Business and Professions Code is amended to read:

25503.85. (a) Notwithstanding any other provision of this chapter, a beer manufacturer or the holder of a distilled spirits manufacturer's license or winegrower's license may purchase advertising space and time from, or on behalf of, an on-sale retail licensee, that shall be limited to small notices, plaques, or signs that portray partial or full sponsorship or funding of educational programs, special fundraising and promotional events, improvements in capital projects, and the development of exhibits or facilities, if all of the following conditions are met:

(1) The on-sale licensee is a zoo or aquarium operated by a nonprofit organization that is accredited by the American Association of Zoological Parks and Aquariums.

(2) The advertising space or time is purchased only in connection with the sponsorship of activities that are held on the premises or grounds owned, leased, or controlled by the on-sale licensee.

(3) The on-sale licensee serves other brands of distilled spirits, beer, or wine within the same license category, in addition to the brand manufactured by the distilled spirits or beer manufacturer or produced by the winegrower purchasing the advertising space or time.

(b) Nothing in this section shall be construed to permit the purchase of billboards or bench advertisements as "advertising space."

(c) Any purchase of advertising space or time pursuant to subdivision (a) shall be accomplished by a written contract entered into by the beer manufacturer or the holder of the distilled spirits manufacturer's license or winegrower's license and the on-sale licensee. That contract shall not in any way involve the holder of a distilled spirits wholesaler's license, or beer and wine wholesaler's license.

(d) Any beer manufacturer or holder of a distilled spirits manufacturer's license or winegrower's license who, through coercion or other means, induces a holder of a distilled spirits

wholesaler's license or beer and wine wholesaler's license to fulfill those contractual obligations entered into pursuant to subdivision (a) or (c) is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a period not to exceed six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

SEC. 12. Section 25512 of the Business and Professions Code is amended to read:

25512. (a) Notwithstanding any other provision of this division, any licensee or officer, director, employee, or agent of a licensee that holds no more than eight on-sale licenses may also hold not more than 16.67 percent of the stock of a corporation that holds beer manufacturer licenses issued pursuant to paragraph (1) of subdivision (a) of Section 23320 that are located in Sacramento, Placer, Contra Costa, San Joaquin, or Napa County, and may serve on the board of directors and as an officer or employee of that corporate licensed beer manufacturer.

(b) An on-sale licensee specified in subdivision (a) shall purchase no alcoholic beverages for sale in this state other than from a licensed wholesaler or winegrower.

(c) In enacting this section, the Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exception established by this section to the general prohibition against tied-house interests must be limited to its expressed terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.